

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2997 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.10.30
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Gopinath Gajanan Bhoir ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Balwant Salunkhe, for the Applicant.

Mr. P. H. Gaikwad, APP for the State/Respondent.

API Sandeep Shingate, Kalyan Taluka Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 25th OCTOBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.546 of 2023, registered with Kalyan Taluka Police Station, for the offences punishable under Sections 326, 341, 324, 323, 427, 504 and 506 read with 34 of Indian Penal Code, 1860 ("the Penal Code"). Subsequently the offences punishable under Section 307 of Penal Code and Section 37(1)(3) and 135 of the Maharashtra Police Act, 1951 have been added.

3. The first informant lodged a report with the allegation that there was a dispute between the first informant and applicant Gopinath Bhoir. On 9th September, 2023, the applicant and his associates intercepted the first informant's car. They were armed with iron rod and sticks. They initially broke the windshield of the car, threw chilly powder on the first informant and the occupants of the car and, thereafter, assaulted them by means of iron rod and sticks. The first informant's wife Ranjana and brother Appa came to their rescue. The applicant allegedly assaulted Ranjana by iron rod on her head. The other associates of the applicant also assaulted the first informant, his son Pramod and brother Appa by means of their respective weapons.

4. The learned Counsel for the applicant submitted that the father of the applicant had lodged NC on the very day at about 4.00 pm. when the first informant herein and his associates had assaulted, abused and threatened to kill the applicant. Out of the rivalry, the applicant has been falsely roped in.

5. The learned APP submitted that the applicant and his associates have assaulted the first informant and his family members by deadly weapons. Attention of the Court was

invited to the statement of the injured witnesses. It was submitted that the antecedents of the applicant indicate that the applicant has created a reign of terror in the area. Chapter case is also initiated against the applicant. Therefore the applicant does not deserve the exercise of discretion.

6. I have perused the allegations in the FIR. I have also perused injury certificate. On the perusal of the injury certificates of the injured, it appears that all injured had sustained abrasion, swelling and scratches. None of the injured had sustained any grievous injury.

7. In the context of the nature of the injuries sustained by the injured, the question as to whether the applicant or the co-accused allegedly unleashed the blows by means of the deadly weapons, is a matter for adjudication. *Prima facie*, the injuries appear to be simple and by means of blunt weapons.

8. In the aforesaid view of the matter, *prima facie* offence punishable under Section 326 of the Penal Code cannot be said to have been made out.

9. As regards the antecedents of the applicant, I have perused the report. It appears that three offences have been

registered against the applicant. All offences appear to be bailable. To add to this, there is an element of animosity between the parties as on the very day of occurrence the father of the applicant had lodged a NC complaint against the first informant herein. In the aforesaid view of the matter, I am impelled to exercise the discretion in favour of the applicant subject to certain conditions.

10. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.546 of 2023, registered with Kalyan Taluka Police Station, the applicant be released on bail on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Kalyan Taluka Police Station on 31st October, 2023 and 1st and 2nd November, 2023 in between 10.00 am. to 1.00 pm. and thereafter as and when directed.
- (iii) The applicant shall not tamper with the prosecution evidence and contact the first

informant and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.

- (iv) The applicant shall also mark his presence at Kalyan Taluka Police Station on the first Monday of every month in between 10.00 am. to 1.00 pm. for the period of six months.
- (v) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vi) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.
- (vii) Application stands disposed.

[N. J. JAMADAR, J.]